

NATHAN B. CAMUTI (SBN 300568)
nate@camutilaw.com
ANDREW R. COWAN (SBN 356310)
andrew@camutilaw.com
CAMUTI LAW GROUP, APC
33 Brookline
Aliso Viejo, CA 92656
Telephone: 949.716.5565

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ERICK DE JESUS ARAGON
ALCANTAR, an individual;

Plaintiff,

v.

RANCHO HUMILDE
ENTERTAINMENT, LLC, a
California limited liability company;
ROQUE VENEGAS, an individual;
JAIME (JIMMY) HUMILDE, an
individual; JOSE (JB) BECERRA,
an individual; ALEXIS AGUIRRE,
an individual; IVAN RAMIREZ, an
individual; GIOVANNI
RODRIGUEZ MEZA, an individual;
and DOES 1 through 10,
INCLUSIVE;

Defendants.

Case No.: 5:25-cv-01445

PLAINTIFF'S COMPLAINT FOR:

- 1. TRADEMARK INFRINGEMENT
UNDER 15 U.S.C. § 1114**
- 2. UNFAIR COMPETITION UNDER 15
U.S.C. §1125(a)(1)(A)**
- 3. FALSE DESIGNATION OF ORIGIN
& FALSE ADVERTISING UNDER 15
U.S.C. § 1125(a)(1)(B)**
- 4. TRADEMARK DILUTION UNDER
15 U.S.C. § 1125(c)**
- 5. UNFAIR COMPETITION UNDER
CAL. BUS. & PROF. CODE §17200**
- 6. COMMON LAW UNFAIR
COMPETITION**

DEMAND FOR JURY TRIAL

1 Plaintiff Erick De Jesus Aragon Alcantar (“Plaintiff”), by and through its
2 undersigned counsel, brings this action against Defendants RANCHO HUMILDE
3 ENTERTAINMENT, LLC (“Rancho Humilde”), ROQUE VENEGAS (“R
4 Venegas”), JAIME (JIMMY) HUMILDE (“J Humilde”), JOSE (JB) BECERRA
5 (“JB Becerra”), ALEXIS AGUIRRE (“A Aguirre”), IVAN RAMIREZ (“I
6 Ramirez”), GIOVANNI RODRIGUEZ MEZA (“G RM”), and DOES 1 through 10,
7 INCLUSIVE (all collectively, “Defendants”), alleging the following:

8 9 **PRELIMINARY STATEMENT**

10 1. This is an action for infringement of Plaintiff’s federally-registered
11 trademarks for “CODICIADO” and “GRUPO CODICIADO” (“Plaintiff’s
12 Marks”) under Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1), for unfair
13 competition and false designation of origin under Section 43(a) of the Lanham
14 Act, 15 U.S.C. § 1125(a), for trademark dilution under the Lanham Act, 15 U.S.C.
15 § 1125(c), and for substantial and related claims of unfair competition under the
16 statutory and common laws of the State of California, all arising from the
17 Defendants’ unauthorized use of marks confusingly similar to Plaintiff’s Marks in
18 connection with the manufacture, distribution, marketing, advertising, promotion,
19 offering for sale, and/or sale of Defendants’ goods and services.

20 2. Plaintiff seeks both injunctive and monetary relief.

21 **JURISDICTION**

22 3. This court has jurisdiction over this action pursuant to 15 U.S.C. §
23 1121, 28 U.S.C. §§ 1331, 1332(a), 1338(a) and (b). This Court also has
24 supplemental jurisdiction over Plaintiff’s pendant state law claims under 28
25 U.S.C. § 1367.

26 4. This Court has personal jurisdiction over Defendants because
27 Defendants have purposefully directed their unlawful and damaging commercial
28 activity into the State of California and into this judicial district, and because

1 Defendants' unlawful commercial activity in this judicial district has caused
2 damage to Plaintiff. This Court has personal jurisdiction over Defendants under at
3 least 28 U.S.C. § 1391(b)(2) in that Defendants have purposefully availed
4 themselves of the laws of this jurisdiction. On information and belief, at least
5 Defendants R Venegas, J Humilde, and JB Becerra reside in this judicial district,
6 and Defendant Rancho Humilde has its principal place of business in this judicial
7 district. As alleged more fully herein, Defendants have marketed, offered for sale,
8 and sold goods and services under marks confusingly similar to Plaintiff's Marks,
9 performing such services and selling such merchandise within this judicial
10 district, thereby committing acts of infringement of Plaintiff's Marks. Defendants
11 have diverted sales and have falsely advertised both in this district and throughout
12 the United States and Mexico by utilizing marks confusingly similar to Plaintiff's
13 Marks in the marketing and distribution of infringing products and services
14 through the internet. Because Defendants have performed, advertised, sold
15 product within, and recorded in this judicial district and reaped the benefit of its
16 laws, it does not offend traditional notions of fair play and substantial justice to
17 hail Defendants into this Court.

18 5. Under 28 U.S.C. § 1391, the United States District Court for the
19 Central District of California is the appropriate venue for this action, because (1)
20 the claims at issue in this litigation arose in this district as a result of Defendants'
21 purposeful marketing, distribution, and sale of infringing products and services
22 into and from this judicial district, causing damage and injury to Plaintiff, his
23 brand, and his valuable intellectual property rights, and (2) because as described
24 above Defendants are properly subject to personal jurisdiction in this district.

25 **PARTIES**

26 6. Plaintiff Erick De Jesus Aragon Alcantar is an individual and citizen
27 of Mexico, residing in the state of California and having an address at 15117
28 Golden Star Ave., Riverside, CA 92506.

1 7. On information and belief, Defendant Rancho Humilde
2 Entertainment, LLC is a limited liability company formed under the laws of
3 California and has its principal place of business located at 3550 Wilshire Blvd,
4 Suite 106, Los Angeles, CA 90010. At all relevant times, Defendant Rancho
5 Humilde Entertainment, LLC directed and or participated in the tortious actions
6 that have harmed Plaintiff as set forth herein.

7 8. On information and belief, Defendant R Venegas is an individual
8 residing in the state of California within this judicial district. At all relevant times,
9 Defendant R Venegas directed and or participated in the tortious actions that have
10 harmed Plaintiff as set forth herein. On information and belief, Defendant R
11 Venegas has a principal place of business located at 14345 Garfield Avenue,
12 Paramount, CA 90723.

13 9. On information and belief, Defendant J Humilde is an individual
14 residing in the state of California within this judicial district. At all relevant times,
15 Defendant J Humilde directed and or participated in the tortious actions that have
16 harmed Plaintiff as set forth herein. On information and belief, Defendant J
17 Humilde has a principal place of business located at 14345 Garfield Avenue,
18 Paramount, CA 90723.

19 10. On information and belief, Defendant JB Becerra is an individual
20 residing in the state of California within this judicial district. At all relevant times,
21 Defendant JB Becerra directed and or participated in the tortious actions that have
22 harmed Plaintiff as set forth herein. On information and belief, Defendant JB
23 Becerra has a principal place of business located at 14345 Garfield Avenue,
24 Paramount, CA 90723.

25 11. On information and belief, Defendant A Aguirre is an individual and
26 citizen of Mexico residing in Tijuana, Mexico. At all relevant times, Defendant A
27 Aguirre directed and or participated in the tortious actions that have harmed
28 Plaintiff as set forth herein.

1 12. On information and belief, Defendant I Ramirez is an individual and
2 citizen of Mexico residing in Tijuana, Mexico. At all relevant times, Defendant I
3 Ramirez directed and or participated in the tortious actions that have harmed
4 Plaintiff as set forth herein.

5 13. On information and belief, Defendant G RM is an individual and
6 citizen of Mexico residing in Tijuana, Mexico. At all relevant times, Defendant G
7 RM directed and or participated in the tortious actions that have harmed Plaintiff
8 as set forth herein.

9 14. Plaintiff are currently unaware of the true names and capacities,
10 whether corporate, associate, individual, or otherwise, of Defendants sued herein
11 as DOES 1 through 10, inclusive, and therefore sues said Defendants, and each of
12 them, by such fictitious names. Plaintiff will seek leave of Court to amend this
13 Complaint to assert the true names and capacities of the fictitiously named
14 Defendants when the same has been ascertained. Plaintiff are informed and
15 believe, and thereon allege, that each Defendant designated as a “DOE” herein is
16 legally responsible for the events, happenings, acts, occurrences, indebtedness,
17 damages, and liabilities hereinafter alleged and caused injuries and damages
18 proximately caused thereby to Plaintiff, as hereinafter alleged.

19 15. Whenever and wherever appearing in this Complaint, each and every
20 reference to defendant, DEFENDANT, DEFENDANTS, and any of them, is
21 intended to be and shall be a reference to all Defendants hereto, and to each of
22 them, named and unnamed, including all fictitiously named Defendants, unless
23 said reference is otherwise specifically qualified.

24 16. Whenever and wherever reference is made in this Complaint to any
25 act by a Defendant or Defendants, such allegations and reference shall also be
26 deemed to mean the acts and failures to act of each Defendant acting individually,
27 jointly, and severally.

28 17. Plaintiff is informed and believes, and on that basis alleges, that

1 Defendants' unlawful conduct delineated in this Complaint actually and
2 proximately caused Plaintiff's damages, for which Defendants, each of them
3 including DOES 1 through 10, inclusive, are jointly and severally liable.

4 18. Plaintiff is informed and believes and thereon alleges that at all times
5 relevant herein, Defendants, each of them, including DOES 1 through 10,
6 inclusive, were an owner, a co-owner, an agent, representative, partner, and/or
7 alter ego of its codefendants, or otherwise acting on behalf of each and every
8 remaining Defendants, and in doing the things hereinafter alleged, were acting
9 within the course and scope of their authorities as an owner, co-owner, an agent,
10 representative, partner, employee, supervisor, and/or alter ego of its co-
11 defendants, and at all times herein mentioned, working in concert with his or her
12 co-defendants and was acting with the permission, consent of, and ratification, in
13 concert with, and in conspiracy with, each and every one of the remaining
14 Defendants.

15 **FACTS**

16 **A. Plaintiff's Band**

17 19. Plaintiff is the owner of valid and subsisting United States
18 Trademark Registration No.'s 7383957, 5924994, and 6099877 on the Principal
19 Register in the United States Patent and Trademark Office for the trademarks
20 "CODICIADO" and "GRUPO CODICIADO" ("Plaintiff's Marks"), registered in
21 connection with downloadable music recordings, music videos, live performance
22 services, and music production, among other goods and services ("Plaintiff's
23 Products"). Attached as Exhibit A are true and correct copies of the registration
24 certificates for Plaintiff's Marks, which have dates of first use of February 11,
25 2013.

26 20. Plaintiff has used Plaintiff's Marks in commerce throughout the
27 United States and Mexico continuously since at least as early as February 11,
28 2013, in connection with the manufacture, recording, distribution, provision,

1 offering for sale, sale, marketing, advertising, and promotion of Plaintiff's
2 Products. Attached hereto as Exhibit B is a true and correct screenshot of
3 representative samples of Plaintiff's Products as displayed on Google, showing
4 Plaintiff's use of Plaintiff's Marks in connection with these goods and services.

5 21. As a result of his widespread, continuous, and exclusive use of
6 Plaintiff's Marks to identify Plaintiff's Products and Plaintiff as the source of the
7 goods and services offered under Plaintiff's Marks, Plaintiff owns valid and
8 subsisting federal statutory and common law rights in Plaintiff's Marks.

9 22. Plaintiff's Marks are distinctive to both the consuming public and
10 Plaintiff's trade.

11 23. Plaintiff has expended substantial time, money, and resources
12 marketing, advertising, and promoting the goods and services sold under
13 Plaintiff's Marks, including through the internet advertising and sales and through
14 live performances. Plaintiff uses Plaintiff's Marks extensively in these marketing
15 efforts.

16 24. Plaintiff offers and sells Plaintiff's Products under Plaintiff's Marks
17 to consumers and concert promoters, including through internet commerce
18 platforms such as Spotify.

19 25. As a result of Plaintiff's expenditures and efforts, Plaintiff's Marks
20 have come to signify the high quality of Plaintiff's Products, and Plaintiff's Marks
21 have acquired incalculable distinction, reputation, and goodwill belonging
22 exclusively to Plaintiff.

23 26. Plaintiff's Marks and the goods and services offered thereunder have
24 received significant unsolicited coverage in various media across the internet, and
25 Plaintiff's songs have hundreds of millions of streams on Spotify.

26 27. As a result of its distinctiveness and widespread use and promotion
27 throughout the United States and Mexico, Plaintiff's Marks are a famous
28 trademark within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. ¶

1 1125(c), and became so prior to the acts of the Defendants alleged herein.

2 **B. Defendant's Unlawful Activities**

3 28. On information and belief, Defendants are engaged in providing,
4 among other goods and services, musical performances, musical recordings,
5 music videos, and downloadable songs.

6 29. Without Plaintiff's authorization, and upon information and belief,
7 beginning after Plaintiff acquired protectable federal rights in Plaintiff's Marks,
8 Defendants adopted and began using the marks "LOS CODICIADOS" and "LOS
9 CODICIA2" ("Infringing Mark") in interstate commerce.

10 30. The Infringing Mark adopted and used by Defendants is practically
11 identical to Plaintiff's Marks. While the "LOS CODICIA2" mark ends in a
12 number, the Spanish pronunciation of "two" is "dos," making both of Defendants'
13 marks effectively "LOS CODICIADOS." This mark differs from Plaintiff's
14 "CODICIADO" mark only in that the final letter is "-S" and in the preceding term
15 "LOS." Plaintiff and Defendants are both engaged in the business of providing
16 goods and services related to the music industry, within similar or the same
17 musical genres.

18 31. Upon information and belief, Defendants have been engaged in the
19 manufacture, distribution, provision, advertising, promotion, offering for sale, and
20 sale of goods and services using the Infringing Mark throughout the United States
21 and Mexico via the internet. Attached hereto as Exhibit C, Exhibit D, Exhibit E,
22 and Exhibit F are true and correct screenshots displaying examples of Defendants'
23 use of the Infringing Mark.

24 32. Upon information and belief, the goods and services Defendants
25 have manufactured, recorded, distributed, provided, promoted, marketed,
26 advertised, offered for sale, and sold under the Infringing Mark are highly related
27 to Plaintiff's Products. Plaintiff and Defendants are effectively direct competitors,
28 marketing to the same consumers with the same interests, offering the same types

1 of goods and services.

2 33. Upon information and belief, Defendants have manufactured,
3 distributed, recorded, provided, marketed, advertised, promoted, offered for sale,
4 and sold their goods and services under the Infringing Mark in interstate
5 commerce by advertising through the internet and by other means including ticket
6 sales to consumers.

7 34. Upon information and belief, Defendants offer and sell their goods
8 and services under the Infringing Mark to consumers interested in songs, music
9 videos, and music recordings, which constitutes the same class of consumers
10 Plaintiff offers his goods and services to.

11 35. Despite cease-and-desist letters which provided clear notice of their
12 infringing conduct, Defendants have not halted their activities or responded to
13 Plaintiff's efforts, instead continuing to offer their infringing products and
14 services to consumers. Defendants' actions thus constitute knowing infringement.

15 36. Defendants' infringing acts as alleged herein have caused and are
16 likely to cause confusion, mistake, and deception among the relevant consuming
17 public as to the source or origin of the Defendants' goods and services and have
18 and are likely to deceive the relevant consuming public into believing,
19 mistakenly, that Defendants' goods and services originate from, are associated or
20 affiliated with, or otherwise authorized by Plaintiff.

21 37. Because of the similarity of the marks and relatedness of the goods at
22 issue, consumers have a high likelihood of mistakenly confusing Defendants'
23 offerings with Plaintiff's Products.

24 38. Upon information and belief, Defendants' acts are willful with the
25 deliberate intent to trade on the goodwill of Plaintiff's Marks, cause confusion
26 and deception in the marketplace, and divert potential sales of Plaintiff's Products
27 to Defendants. Defendants A Aguirre, JB Becerra, R Venegas, J Humilde, and
28 Rancho Humilde in particular all have a prior business relationship with Plaintiff,

1 and were aware of Plaintiff's valuable intellectual property rights because of this
2 prior relationship before the acts of infringement occurred.

3 39. Defendants' acts are causing and, unless restrained, will continue to
4 cause incalculable damage and immediate irreparable harm to Plaintiff and to his
5 valuable reputation and goodwill with the consuming public for which Plaintiff
6 has no adequate remedy at law.

7 **COUNT I**

8 **TRADEMARK INFRINGEMENT UNDER 15 U.S.C. § 1114**

9 40. Plaintiff realleges and incorporates by reference Paragraphs 1
10 through 39 of the Complaint as though fully set forth herein.

11 41. Defendants' unauthorized use in commerce of the Infringing Mark as
12 alleged herein is likely to deceive consumers as to the origin, source, sponsorship,
13 or affiliation of Defendants' goods and services, and is likely to cause consumers
14 to believe, contrary to fact, that Defendants' goods and services are sold,
15 authorized, endorsed, or sponsored by Plaintiff, or that Defendants are in some
16 way affiliated with or sponsored by Plaintiff. Defendants' conduct therefore
17 constitutes trademarks infringement in violation of Section 32(1) of the Lanham
18 Act, 15 U.S.C. § 1114(1).

19 42. Upon information and belief, Defendants have committed the
20 foregoing acts of infringement with full knowledge of Plaintiff's prior rights in
21 Plaintiff's Marks and with the willful intent to cause confusion and trade on
22 Plaintiff's goodwill.

23 43. Defendants' conduct is causing immediate and irreparable harm and
24 injury to Plaintiff, and to its goodwill and reputation, and will continue to both
25 damage Plaintiff and confuse the public unless enjoined by this court. Plaintiff has
26 no adequate remedy at law.

27 44. Plaintiff is entitled to, among other relief, injunctive relief and an
28 award of actual damages, Defendants' profits, enhanced damages and profits,

1 reasonable attorneys' fees, and costs of the action under Sections 34 and 35 of the
2 Lanham Act, 15 U.S.C. §§ 1116, 1117, together with prejudgment and post-
3 judgment interest.

4 **COUNT II**

5 **UNFAIR COMPETITION UNDER 15 U.S.C. § 1125(a)(1)(A)**

6 45. Plaintiff realleges and incorporates by reference Paragraphs 1
7 through 39 of the Complaint as though fully set forth herein.

8 46. Defendants' unauthorized use in commerce of the Infringing Mark as
9 alleged herein is likely to deceive consumers as to the origin, source, sponsorship,
10 or affiliation of Defendants' goods and services, and is likely to cause consumers
11 to believe, contrary to fact, that Defendants' goods and services are sold,
12 authorized, endorsed, or sponsored by Plaintiff, or that Defendants are in some
13 way affiliated with or sponsored by Plaintiff.

14 47. Defendants' unauthorized use in commerce of the Infringing Mark as
15 alleged herein constitutes use of a false designation of origin and misleading
16 description and representation of fact.

17 48. Upon information and belief, Defendants' conduct as alleged herein
18 is willful and is intended to and is likely to cause confusion, mistake, or deception
19 as to the affiliation, connection, or association of Defendants with Plaintiff.

20 49. Defendants' conduct as alleged herein constitutes unfair competition
21 in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

22 50. Defendants' conduct as alleged herein is causing immediate and
23 irreparable harm and injury to Plaintiff, and to his goodwill and reputation, and
24 will continue to both damage Plaintiff and confuse the public unless enjoined by
25 this court. Plaintiff has no adequate remedy at law.

26 51. Plaintiff is entitled to, among other relief, injunctive relief and an
27 award of actual damages, Defendants' profits, enhanced damages and profits,
28 reasonable attorneys' fees, and costs of the action under Sections 34 and 35 of the

1 Lanham Act, 15 U.S.C. §§ 1116, 1117, together with prejudgment and post-
2 judgment interest.

3 **COUNT III**

4 **FALSE DESIGNATION OF ORIGIN UNDER 15 U.S.C. § 1125(a)(1)(B)**

5 52. Plaintiff realleges and incorporates by reference Paragraphs 1
6 through 39 of the Complaint as though fully set forth herein.

7 53. Defendants' unauthorized use in commerce of Plaintiff's Marks
8 and/or a confusingly similar variation thereof as alleged herein is likely to deceive
9 consumers as to the origin, source, sponsorship, or affiliation of Defendants'
10 alleged goods and services, and likely to cause consumers to believe, contrary to
11 fact, that Defendants' goods and services are sold, authorized, endorsed, or
12 sponsored by Plaintiff, or that Defendants are in some way affiliated with or
13 sponsored by Plaintiff.

14 54. Defendants' unauthorized use in commerce of Plaintiff's Marks
15 and/or a confusingly similar variation thereof as alleged herein constitutes use of a
16 false designation of origin and misleading description and representation of fact.

17 55. Upon information and belief, Defendants' conduct as alleged herein
18 is willful, is intended to, is likely to, and has caused confusion, mistake, or
19 deception as to the affiliation, connection, or association of Defendants with
20 Plaintiff.

21 56. Defendants' conduct as alleged herein constitutes false designation
22 of origin in violation of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B).

23 57. Defendants' conduct as alleged herein is causing immediate and
24 irreparable harm and injury to Plaintiff, and to his goodwill and reputation, and
25 will continue to both damage Plaintiff and confuse the public unless enjoined by
26 this Court. Plaintiff has no adequate remedy at law.

27 58. Plaintiff is entitled to, among other relief, injunctive relief and an
28 award of actual damages, Defendants' profits, enhanced damages and profits,

1 reasonable attorneys' fees, and costs of the action under §§ 34 and 35 of the
2 Lanham Act, 15 U.S.C. §§ 1116, 1117, together with prejudgment and post-
3 judgment interest.

4 **COUNT IV**

5 **FEDERAL TRADEMARK DILUTION UNDER 15 U.S.C. § 1125(c)**

6 59. Plaintiff realleges and incorporates by reference Paragraphs 1
7 through 39 of the Complaint as though fully set forth herein.

8 60. Plaintiff's Marks are distinctive due to Plaintiff's long use,
9 marketing, and extensive sales, making Plaintiff's Marks famous within the
10 meaning of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

11 61. Plaintiff's Marks became distinctive and famous prior to Defendants'
12 acts alleged herein.

13 62. Defendants' acts as alleged herein have diluted and will, unless
14 enjoined, continue to dilute and are likely to dilute the distinctive quality of
15 Plaintiff's famous trademarks.

16 63. Defendants' acts as alleged herein have tarnished and will, unless
17 enjoined, continue to tarnish or are likely to tarnish Plaintiff's Marks by
18 undermining and damaging the valuable goodwill associated therewith.

19 64. Defendants' acts as alleged herein are intentional and willful in
20 violation of Section 43(c)(1) of the Lanham Act, and have already caused Plaintiff
21 irreparable damage and will, unless enjoined, continue to so damage Plaintiff,
22 who has no adequate remedy at law.

23 65. Plaintiff is entitled to, among other relief, an award of actual
24 damages, Defendants' profits, enhanced damages and profits, reasonable
25 attorneys' fees, and costs of the action under Sections 34 and 35 of the Lanham
26 Act, 15 U.S.C. §§ 1116 and 1117, together with prejudgment and post-judgment
27 interest.

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3 **COUNT V**

4 **UNFAIR COMPETITION UNDER Cal. Bus. & Prof. Code § 17200, et seq.**

5 66. Plaintiff realleges and incorporates by reference Paragraphs 1
6 through 39 of the Complaint as though fully set forth herein.

7 67. By engaging in the acts and practices as alleged throughout this
8 Complaint, Defendants have committed acts of unfair competition, as that term is
9 defined and used in the Cal. Bus. & Prof. Code § 17200, et seq., which prohibits
10 “any unlawful, unfair, or fraudulent business act or practice. . .”

11 68. Under California law, a business practice is unlawful if it is
12 forbidden by law.

13 69. Under the UCL, whether a business practice is “fair” involves a
14 balance of the impact of such conduct on its alleged victims versus the reasons,
15 justification, and motive of the alleged wrongdoer.

16 70. Plaintiff is within the class intended to be protected by California
17 Business & Professions Code § 17200.

18 71. As alleged throughout this complaint, Defendants, and each of them,
19 have intentionally, deliberately, and willfully engaged in infringing actions upon
20 Plaintiff’s Marks without express authorization and/or consent of Plaintiff.
21 Specifically, Defendants, without the consent and/or authorization of Plaintiff,
22 have intentionally, deliberately, and willfully used and/or otherwise exploited
23 Plaintiff’s Marks and/or confusingly similar variations thereof in commerce, in an
24 effort to advertise, promote, market, solicit, and sell Defendants’ goods and
25 services.

26 72. Additionally, as delineated herein, Defendants have intentionally,
27 deliberately, and willfully copied and/or otherwise used Plaintiff’s Marks and/or
28 confusingly similar variations thereof in connection with their efforts to advertise,
promote, market, solicit, and sell their competing goods and services.

73. Such acts as delineated within this Complaint, taken cumulatively, against Defendants rise to the level of deceptive, unfair, unlawful, and wrongful conduct.

74. By reason of Defendants' deceptive, unfair, unlawful, and wrongful conduct, Defendants have violated California Business & Professions Code § 17200, by consummating an unlawful, unfair, and fraudulent business practice, designed to intentionally deceive the consuming public into believing that Defendants and the services being offered in commerce by Defendants are endorsed by and/or otherwise affiliated with Plaintiff.

75. Specifically, as a consequence of Defendants' acts and omissions, Plaintiff is entitled to a preliminary and permanent injunction against Defendants restraining them, and each of them, from misappropriation and false utilization of Plaintiff's Marks as well as any confusingly similar variations thereof from any further effort, publication, or act and omission which has the effect of leading Plaintiff's customers and the general public into believing there is any affiliation of any kind whatsoever between Plaintiff and Defendants.

76. The actions of Defendants are willful and malicious. Therefore, Plaintiff is entitled to exemplary damages in an amount necessary and sufficient to ensure that no further incidents, replication, or similar occurrence regarding the rights of Plaintiff occur at any time in the future and is a message that such obstinate and despicable conduct is not tolerated in a civilized society.

COUNT VI

COMMON LAW TRADEMARK INFRINGEMENT

77. Plaintiff realleges and incorporates by reference Paragraphs 1 through 39 of the Complaint as though fully set forth herein.

78. Plaintiff has established significant goodwill and favorable public recognition in Plaintiff's Marks through extensive use of the marks throughout California and in interstate commerce in connection with Plaintiff's goods and

1 services.

2 79. Without Plaintiff's consent, authorization, or knowledge, Defendants
3 have used and continue to use Plaintiff's Marks and/or a confusingly similar
4 variation thereof in connection with the sale, offering for sale, distribution,
5 provision, or advertising of their goods and services, thereby trading upon the
6 goodwill associated with Plaintiff, and misleading the public into believing a
7 connection or association exists between Defendants and Plaintiff.

8 80. Defendants' acts of infringement have caused and are likely to cause
9 consumer confusion and to mislead and deceive the consuming public as to the
10 source of Defendants unauthorized goods or services, enable Defendants to pass
11 off their unauthorized goods or services as Plaintiff's goods or services, and
12 falsely suggest a connection between Defendants and Plaintiff. Defendants'
13 actions thus violate the common law of the State of California.

14 81. As a direct and proximate result of Defendants' infringing activities,
15 Plaintiff has suffered and will continue to suffer significant damage in the form of
16 loss of revenue, income, profits, and goodwill, which will increase if not enjoined,
17 and Defendants have unfairly acquired and will continue to unfairly acquire
18 revenue, income, profits, and goodwill and unjustly enrich themselves at
19 Plaintiff's expense.

20 82. Defendants' trademark infringement will also continue to cause
21 irreparable harm if Defendants are not restrained by this Court from further
22 violation of Plaintiff's rights. Plaintiff has no adequate remedy at law for all of the
23 harm being caused to Plaintiff, particularly in respect of the loss of Plaintiff's
24 goodwill, market share, and mark and brand control due to Defendants'
25 infringement. Plaintiff is therefore entitled to and seeks temporary and permanent
26 injunctive relief.

27 83. Defendants' infringement was and is tortious, malicious, outrageous,
28 oppressive, fraudulent, made in bad faith, and in conscious disregard of Plaintiff's

1 rights. Accordingly, in addition to general and compensatory damages, Plaintiff
2 should be awarded exemplary, punitive, and treble damages sufficient to punish
3 and make an example of Defendants.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff prays for relief and requests judgment against Defendants
6 as follows:

7 1. That Defendants have violated Section 32 of the Lanham Act (15
8 U.S.C. § 1114); and Sections 43(a) and (c) of the Lanham Act (15 U.S.C. §§
9 1125(a)(1), 1125(c)).

10 2. That Defendants have violated California Business & Professions
11 Code § 17200, et seq., and California common law.

12 3. That Defendants actions in doing so were willful.

13 4. Granting an injunction preliminarily and permanently enjoining the
14 Defendants, their employees, agents, officers, directors, attorneys, successors,
15 affiliates, subsidiaries, and assigns, and all of those in active concert and
16 participation with any of the foregoing persons and entities who receive actual
17 notice of the Court's order by personal service or otherwise from:

18 a. manufacturing, distributing/providing, selling, marketing,
19 advertising, promoting, or authorizing any third party to manufacture,
20 distribute/provide, sell, market, advertise, or promote goods and services
21 bearing the Infringing Mark or any other mark that is a counterfeit, copy,
22 simulation, confusingly similar variation, or colorable imitation of
23 Plaintiff's Marks;

24 b. engaging in any activity that infringes Plaintiff's rights in
25 Plaintiff's Marks;

26 c. engaging in any activity constituting unfair competition with
27 Plaintiff;

28 d. making or displaying any statement, representation, or

1 depiction that is likely to lead the public or the trade to believe that (i)
2 Defendants' goods or services are in any manner approved, endorsed,
3 licensed, sponsored, authorized, or franchised by, or associated, affiliated,
4 or otherwise connected with Plaintiff, or (ii) Plaintiff's goods and services
5 are in any manner approved, endorsed, licensed, sponsored, authorized, or
6 franchised by, or associated, affiliated, or otherwise connected with
7 Defendants;

8 e. using or authorizing any third party to use in connection with
9 any business, goods, or services any false description, false representation,
10 or false designation of origin, or any marks, names, words, symbols,
11 devices, or trade dress that falsely associate such business, goods and/or
12 services with Plaintiff or tend to do so;

13 f. registering or applying to register any trademark, service mark,
14 domain name, trade name, or other source identifier or symbol of origin
15 consisting of or incorporating Infringing Mark or any other mark that
16 infringes or is likely to be confused with Plaintiff's Marks, or any of
17 Plaintiff's Products, or Plaintiff as their source; and

18 g. aiding, assisting, or abetting any other individual or entity in
19 doing any act prohibited by sub-paragraphs (a) through (f).

20 5. Granting such other and further relief as the Court may deem proper
21 to prevent the public and trade from deriving the false impression that any goods
22 or services manufactured, sold, distributed, licensed, marketed, advertised,
23 promoted, or otherwise offered or circulated by Defendants are in any way
24 approved, endorsed, licensed, sponsored, authorized, or franchised by, or
25 associated, affiliated, or otherwise connected with Plaintiff or constitute or are
26 connected with Plaintiff's goods or services.

27 6. Directing Defendants to immediately cease all manufacture, display,
28 distribution, marketing, advertising, promotion, sale, offer for sale, and/or use of

1 any and all packaging, labels, catalogs, shopping bags, containers, advertisements,
2 signs, displays, and other materials that feature or bear any designation or mark
3 incorporating the Infringing Mark or any other mark that is a counterfeit, copy,
4 simulation, confusingly similar variation, or colorable imitation of Plaintiff's
5 Marks, and to direct all distributors, retailers, wholesalers, and other individuals
6 and establishments wherever located in the United States and Mexico that
7 distribute, advertise, promote, sell, or offer for sale Defendants' goods or services
8 to cease forthwith the display, distribution, marketing, advertising, promotion,
9 sale, and/or offering for sale of any and all goods, services, packaging, labels,
10 catalogs, shopping bags, containers, advertisements, signs, displays, and other
11 materials featuring or bearing the Infringing Mark or any other mark that is a
12 counterfeit, copy, simulation, confusingly similar variation, or colorable imitation
13 of the Plaintiff's Marks, and to immediately remove them from public access and
14 view.

15 7. Directing that Defendants recall and deliver up for destruction all
16 goods, packaging, shopping bags, containers, advertisements, promotions, signs,
17 displays, stickers, and related materials incorporating or bearing the Infringing
18 Mark or any other mark that is a counterfeit, copy, confusingly similar variation,
19 or colorable imitation of Plaintiff's Marks.

20 8. Directing Defendants to formally abandon with prejudice any and all
21 of their applications to register the Infringing Mark or any mark consisting of,
22 incorporating, or containing Plaintiff's Marks or any counterfeit, copy,
23 confusingly similar variation, or colorable imitation thereof on any state or federal
24 trademark registry.

25 9. Directing Defendants to cancel with prejudice any and all of their
26 registrations for the Infringing Mark or any mark consisting of, incorporating, or
27 containing Plaintiff's Marks or any counterfeit, copy, confusingly similar
28 variation, or colorable imitation thereof on any state or federal trademark registry.

1 10. Directing, pursuant to Section 35(a) of the Lanham Act (15 U.S.C. §
2 1116(a)), Defendants to file with the court and serve upon Plaintiff's counsel
3 within thirty (30) days after service on Defendants of an injunction in this action,
4 or such extended period as the court may direct, a report in writing under oath,
5 setting forth in detail the manner and form in which Defendants have complied
6 therewith.

7 11. Awarding Plaintiff an amount up to three times the amount of their
8 actual damages, in accordance with Section 35(a) of the Lanham Act (15 U.S.C. §
9 1117(a)).

10 12. Directing that Defendants account to and pay over to Plaintiff all
11 profits realized by their wrongful acts in accordance with Section 35(a) of the
12 Lanham Act (15 U.S.C. § 1117(a)), enhanced as appropriate to compensate
13 Plaintiff for the damages caused thereby.

14 13. Awarding Plaintiff punitive and exemplary damages as the court
15 finds appropriate to deter any future willful infringement.

16 14. Declaring that this is an exceptional case pursuant to Section 35(a) of
17 the Lanham Act and awarding Plaintiff their costs and reasonable attorneys' fees
18 thereunder (15 U.S.C. § 1117(a)).

19 15. Awarding Plaintiff interest, including prejudgment and post-
20 judgment interest, on the foregoing sums.

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1 16. Awarding such other and further relief as the Court deems just and
2 proper.

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4 Respectfully submitted,

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6 Dated: June 10, 2025

By: /s/ Andrew Robert Cowan

7 Andrew R. Cowan, Esq.
8 andrew@camutilaw.com
9 CAMUTI LAW GROUP APC
10 33 Brookline
11 Aliso Viejo, CA 92656
12 Telephone: 949.716.5565

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14 *Attorneys for Plaintiff*
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